

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Apr 15, 2021**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

STEPHANIE WOODCOCK,

Plaintiff,

v.

ETHICON, INC., and JOHNSON AND  
JOHNSON,

Defendants.

No. 1:20-cv-03100-SMJ

**ORDER GRANTING  
DEFENDANTS' MOTION TO  
DISMISS PLAINTIFF'S  
COMPLAINT**

Before the Court, without oral argument, is Defendants' Motion to Dismiss Plaintiff's First Amended Complaint, ECF No. 28. Defendants argue this Court should follow its decision in *Hernandez v. Johnson & Johnson*, No. 4:20-cv-05136-SMJ, 2021 WL 320612 (E.D. Wash. Jan. 8, 2021) and *Butler v. Johnson & Johnson*, No. 4:20-cv-05137-SMJ, ECF No. 25 (E.D. Wash. Mar. 25, 2021)—as the First Amended Complaint in this case is practically identical to the complaints dismissed in these two analogous cases. *See generally* ECF Nos. 28, 31. This Court agrees.

Having reviewed the pleadings and file in this matter, as well as the relevant case law and this Court's decision in *Hernandez* and *Butler*, the Court finds the complaints in *Hernandez* and *Butler* practically indistinguishable from the First

1 Amended Complaint at issue here. Accordingly, this Court dismisses the Plaintiff's  
2 First Amended Complaint for the same reasons already set forth in *Hernandez* and  
3 adopted in *Butler*. Like *Hernandez*, Plaintiff's WPLA claim fails to plausibly state  
4 a claim upon which relief can be granted. *See Hernandez*, 2021 WL 320612, at \*2–  
5 5. Although Plaintiff's WCPA claim states a claim under the *Twombly* and *Iqbal*  
6 standard, it fails to satisfy the heightened pleading standard under Federal Rule of  
7 Civil Procedure 9(b). *See id.* at \*5–6. Despite these deficiencies, Plaintiff may save  
8 her First Amended Complaint through further amendment and thus the Court grants  
9 Plaintiff an opportunity to amend their operative complaint. *See id.* at \*6–7.

10 Accordingly, **IT IS HEREBY ORDERED:**

11 **1. Defendants' Motion to Dismiss Plaintiff's First Amended Complaint,**  
12 **ECF No. 28, is GRANTED.**

13 **2. Plaintiff's First Amended Complaint, ECF No. 26, is DISMISSED**  
14 **WITHOUT PREJUDICE.**

15 **3. Plaintiff may file a second amended complaint by no later than 30**  
16 **days from the date of this Order.**

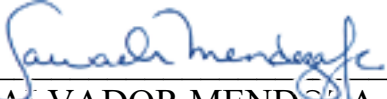
17 **A.** If Plaintiff does not file an amended complaint by that date, the  
18 Court will instruct the Clerk's Office to enter judgment  
19 dismissing this action without prejudice and closing the file.

20 //

1           **B.**     If Plaintiff files an amended complaint, Defendants shall file a  
2                       responsive pleading in accordance with the Federal and Local  
3                       Civil Rules.

4           **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and  
5 provide copies to all counsel.

6           **DATED** this 15<sup>th</sup> day of April 2021.

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8                       \_\_\_\_\_  
9                       SALVADOR MENDOZA, JR.  
                      United States District Judge